



**FILED**

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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of California-American Water Company (U210W) to Decrease Revenues for Water Service in its Coronado District by (\$73,100) or (0.46%) in 2008 and Increase Revenues by \$266,200 or 1.67% in 2009 and \$260,900 or 1.61% in 2010.

Application 07-01-036  
(Filed January 22, 2007)

And Related Matters.

Application 07-01-037  
Application 07-01-038  
Application 07-01-039

**ADMINISTRATIVE LAW JUDGE'S RULING  
REOPENING THE RECORD TO ACCEPT LATE-FILED EXHIBITS  
AND GRANTING INTERIM RATE RELIEF**

**Summary**

Pursuant to Rule 11.1 of the Rules of Practice and Procedure, this ruling reopens the record in this proceeding and accepts California-American Water Company's (CalAm) late filed exhibits. Pursuant to Section 455.2 of the Public Utilities Code (Section 455.2), this ruling also grants interim rate relief to CalAm for its Larkfield, Sacramento, and Village Districts on January 1, 2008.<sup>1</sup> The interim rate relief is based on the rate of inflation as compared to existing rates

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<sup>1</sup> CalAm's General Rate Case (GRC) application seeks a revenue decrease in the Coronado District for test year 2008; therefore, the Coronado district rates will not be affected by this decision.

for the districts, will be subject to refund and will be adjusted upward or downward, back to January 1, 2008, consistent with the final rates adopted by the Commission in the pending GRC.<sup>2</sup> A memorandum account will be established to track any possible refund amounts.

### **CalAm's Motion to Reopen the Record and Accept Late-Filed Exhibits**

On October 2, 2007, CalAm filed a motion to reopen the record to file late-filed exhibits. No party protested the motion.

CalAm states that its late-filed exhibits correct errors contained in the comparison tables included in the *Settlement Agreements as to Certain Issues Between the Division of Ratepayers Advocates and California-American Water Company on the Revenue Requirements* (Settlement Agreement). According to the motion, the corrections consist of a net negative salvage being accounted for twice in 2006 and 2007 for all districts. This error incorrectly decreased CalAm's depreciation reserve, overstating the proposed rate base in the comparison tables. CalAm's exhibit also corrected the omission in 2009 of \$1.3 million in 2008 additions to plant in service for the Sacramento District. According to CalAm, the \$1.3 million figure was accepted by the Division of Ratepayer Advocates (DRA), but it did not properly flow through to the linked Excel file for 2009. CalAm asserts that the corrections contained in the late-filed exhibits and their receipt into the record do not affect the terms of the Settlement Agreement.

The errors CalAm discovered and subsequently corrected in its comparison tables, while not affecting the Settlement Agreement, do impact the

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<sup>2</sup> The rate of inflation is to be calculated using the most recent 12-month ending change in the U.S. Cities Consumer Price Index maintained by the U.S. Department of Labor Statistics.

overall revenue requirement figures in the GRC. Ensuring an accurate record is vital to any proceeding and parties should be encouraged to submit accurate information, even if it requires reopening the record to admit corrections. Therefore, the record is reopened so that CalAm's late-filed exhibits may be entered into evidence.

### **CalAm's Request for Interim Rate Relief**

On November 2, 2007, more than 60 days after the due date for filing opening briefs, CalAm filed its motion for interim rate relief. The Rate Case Plan<sup>3</sup> (RCP) requires the applicant to file a motion for interim rate relief on or before the date for filing its opening brief, unless a different date is designated by the Presiding Officer. The need for interim rate relief was not known until October, and via email I granted CalAm permission to file the motion. No party protests the motion.

CalAm states that Section 455.2 provides for interim rate relief when the Commission is unable to issue its final decision on a GRC application of a water corporation with greater than 10,000 service connections in a manner ensuring the decision becomes effective on the first day of the first test year in the application. The first day of the first test year for CalAm's GRC is January 1, 2008. Further, CalAm states it has met all requirements for interim rate relief contained in Section 455.2(b) which provides:

(b) If the commission's decision is not effective in accordance with subdivision (a), the applicant may file a tariff implementing interim

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<sup>3</sup> On May 24, 2007, the Commission issued Decision 07-05-062, adopting a new RCP. The requirement of filing a motion for interim rate relief on or before the date for filing opening briefs is new.

rates that may be increased by an amount equal to the rate of inflation as compared to existing rates. The interim rates shall be effective on the first day of the test year in the GRC application. These interim rates shall be subject to refund and shall be adjusted upward or downward back to the interim rate effective, consistent with the final rates adopted by the commission. The commission may authorize a lesser increase in interim rates if the commission finds the rates to be in the public interest. If the presiding officer in the case determines that the commission's decision cannot become effective on the first day of the first test year due to action by the water corporation, the presiding officer or commission may require a different effective date for the interim rate or final rates.

CalAm asserts in its motion that it has made a substantial showing in this proceeding for a rate increase equal to the rate of inflation. It also cites to its pending Settlement Agreement with DRA as support for this assertion.

In its motion, CalAm states that the procedural delay was not due to actions on its part and therefore the RCP requires the Commission to grant interim rate relief pursuant to Section 455.2. CalAm cites multiple cases where the Commission has granted interim rate relief even when it found that the delay was partially caused by the utility.<sup>4</sup>

CalAm states that its request for interim rate relief is in the public interest because in the past the Commission has found that delays should not result in either the utility foregoing revenues necessary for just and reasonable rates or the ratepayers less (or more) reasonable rates.

The criteria for granting interim rate relief under Section 455.2 require that:

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<sup>4</sup> See Motion of California-American Water Company for Interim Rate Relief, p. 6, fn. 12.

- The utility demonstrate that it has made a substantial showing in its application supporting a rate increase at least equal to the rate of inflation;
- The Commission determine whether interim relief is “in the public interest”; and
- The presiding officer’s decision address whether the delay in completing the GRC proceeding is “due to actions by the water corporation” and, if so, the presiding officer’s decision shall specify the utility’s actions that caused the delay and shall include a proposed effective date for interim or final rates.

On the first criterion, CalAm made a detailed showing in its application in support of rate increases for its Larkfield, Sacramento and Village Districts that are substantially higher than the rate of inflation. CalAm supports the rate increases sought in its application with rate tables, workpapers and expert testimony. Even the rates sought by DRA, while lower than CalAm’s, are higher than the rate of inflation. CalAm has met its burden on this criterion since the interim rates requested in its motion are appropriate.

As to the second and third criteria, CalAm emphasizes that it is not the cause of the delay and as such, interim rate relief is in the public interest and should be granted. As to the cause of the delay, CalAm is partially responsible as its motion to reopen the proceeding to accept late-filed exhibits was filed on the very eve of the release of the proposed decision.<sup>5</sup> CalAm’s corrected comparison tables require Water Division staff review and, where necessary,

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<sup>5</sup> The proceeding schedule called for release of the proposed decision on September 24, 2007. Although parties were informed via email that the proposed decision would not be released until the first week in October, that minor delay would not have prevented the Commission from issuing a decision so new rates would be effective January 1, 2008.

revisions to the already completed comparison tables attached to the proposed decision. However, CalAm correctly states that up until the date for the release of the proposed decision, each milestone was timely met. The errors in CalAm's original comparison table filings were inadvertent and the subsequent corrections did not benefit CalAm. Although accuracy in the original filing is preferred, rate cases are complex proceedings and errors do occur. As CalAm points out, the Commission has previously granted interim rate relief even in instances where the utility was partly to blame for the delays.

As to interim rate relief being in the public interest, the Commission has recognized in past decisions that utilities should not be financially harmed or ratepayers allowed to gain from deferred rate increases caused by delays in processing GRCs. Denying CalAm interim rate relief would amount to penalizing it for correcting inadvertent errors which ensured an accurate record in the proceeding. An accurate record is in the public interest, therefore granting CalAm interim rate relief in this instance is also in the public interest.

Although CalAm is partially responsible for the delay, there is no pattern of CalAm causing delay in any other aspect of the proceeding. It is in the public interest to grant CalAm's motion since to do otherwise would be a disincentive to parties to correct the record where unintentional errors have occurred. Because the criteria for granting interim rate relief contained in Section 455.2 have been met and no party has protested the motion, interim rate relief is granted.

Therefore, **IT IS RULED** that:

1. The record in Application 07-01-036 is reopened and California-American Water Company's (CalAm) late-filed exhibit is accepted.

2. CalAm shall file, by advice letter within five days, a tariff with the Commission implementing interim rates in its Larkfield, Sacramento and Village Districts effective January 1, 2008. The interim increase shall be based on the rate of inflation as compared to existing rates for each district. The rate of inflation will be the most recent 12-month ending change in the U.S. Cities CPI-U published by the U.S. Bureau of Labor Statistics. The rate relief will be subject to refund and will be adjusted upward or downward, back to January 1, 2008, consistent with the final rates adopted by the Commission in the pending GRC. The advice letter will also request establishment of a memorandum account that will track possible refund amounts.

3. This proceeding remains open for resolution of the pending GRC application.

Dated November 19, 2007, at San Francisco, California.

/s/ LINDA A. ROCHESTER

Linda A. Rochester  
Administrative Law Judge

### **INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated November 19, 2007, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis